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PATENTAppl. No. 10/659,127  
Amdt. dated August 9, 2006  
Reply to Office Action of March 24, 2006**REMARKS/ARGUMENTS**

Claims 1 - 22 were pending in this application. Upon entry of this response amending claims 1 and 12, claims 1-22 remain pending. Claims 1-7 and 12-17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,857,208 issued to Ofek. (hereinafter "Ofek"). Claims 8-11 and 18-22 stand rejected under 35 U.S.C. §103(a) as being anticipated by Ofek in view of U.S. Patent No. 5,771,354 issued to Crawford (hereinafter "Crawford"). Applicants aver no new matter has been added in this response.

**§102/§103 Rejections****Claims 1 and 12**

In the Office Action, the Examiner rejected claims 1-7 and 12-17 under 35 U.S.C. §102(b) as being anticipated by Ofek, and rejected claims 8-11 and claims 18-22 under 35 U.S.C. §103(a) as being obvious over Ofek in view of Crawford.

With regard to claims 1 and 12, in the Office Action the Examiner states that Ofek discloses an information backup system which includes a local disk and a local device driver responsive to requests from a local application executing on a local computing system, for selectively processing calls to the local disk or a remote disk for backup of data resident on said local disk, where calls from the local device driver are processed to perform backup operations to the remote disk of data resident on the local computing system pointing to col. 2 and col. 5 *et seq.* of Ofek, and referring to "answers.com" for the definition of a device driver. In the Office Action the Examiner states that Crawford discloses a communication connection via an Internet connection, and LAN/WAN connection, and a remote link director pointing to FIG. 1, col. 3 and col. 5 *et seq.* of Crawford. Applicants respectfully traverse the rejections.

Applicants submit that Ofek or Crawford alone or in combination do not disclose all of the elements of claim 1 or claim 12. For example, amended claim 1 partially recites "wherein [a] *local device driver is disposed between a disk driver and a system interface* and monitors the availability of [a] local disk", and claim 12 as amended partially recites "*wherein [a] local device driver operates between a disk driver and a system interface and monitors the*

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*availability of [a] local disk...wherein [a] remote device driver operates between a remote disk driver and a remote system interface and monitors the availability of [a] remote disk, wherein if the local disk is deemed inaccessible by the local device driver, the local device driver routes read/write operations of [a] local computing system to [a] remote computing system"* (emphasis added).

Ofek discloses a system for performing point in time backup operations for a computer system where a physically separate remote computer system is used to mirror data of a local computer system. Ofek discloses a local and remote system manager, local and remote device controllers, and local and remote link directors. In Ofek, the local channel director provides communication and data transfer between the local host, the local system memory, the local device controller, and local storage devices. The remote channel director provides communication and data transfer between the remote host, the remote system memory, the remote device controller, and remote storage devices. The local system manager is employed by an operator to transfer information between elements of the local system using the local device controller. The remote system manager is employed by an operator to transfer information between elements of the remote system through the remote device controller. The local host system communicates through the local and remote link directors to mirror changes on the local system to the remote system.

During normal data mirroring operations the local system is active while the remote system operates solely as a mirror. If there is a catastrophe where the local system is inaccessible, an operator can transfer control to the remote system using the remote system manager to allow the remote system to take over read/write operations. During a data backup operation on the remote system, the remote system and local system are disconnected using the remote system manager and remote link director. During the backup process, the disconnected local system continues uninterrupted and logs data changes made during the backup process. Once the data backup is complete on the remote system, the local system and remote system synchronize the changes to the local data using a copy program using the data logs (i.e. track status).

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Ofek does not disclose a local device driver that operates between a disk driver and a system interface and where the local device driver *monitors the availability of the local disk*, or where *if the local disk is deemed inaccessible* by a local device driver, *the local device driver routes read/write operations of the local computing system to a remote computing system* as claimed (emphasis added). On the contrary, Ofek discloses a conventional data mirroring system that, during a normal operation, mirrors data from the local system to a remote system operating in a read-only mode, and under failure of the local system, an operator can disconnect the local and remote systems from each other and enlist the remote system to perform read/write operations. (See Ofek, Figs. 2-4, col. 4, line 44 through col. 5 line 43, and col. 6, lines 9-16).

Crawford discloses an internet online backup system where a use may use an online storage device and processing accessed via an Internet connection. In Crawford, a customer signs up for services such as online software, online backup, etc., for a fee.

Therefore Applicants submit that Crawford fails to make up for what Ofek lacks. Therefore, as claims 1 and 12 disclose elements not disclosed by Ofek and Crawford, taken alone or in combination, Applicants submit claims 1 and 12 are allowable.

Dependent claims 2-11 and 13-22

Claims 2-11 which depend from claim 1, and claims 13-22 which depend from claim 12 are allowable for at least the reasons discussed in relation to claims 1 and 12, as well as the limitations they recite.

**Supplemental IDS filed December 7, 2005**

Applicant filed a Supplemental IDS in the USPTO on December 7, 2005, and is being called to the Examiner as to date, it does not appear in the PAIR system. We are including a copy of it as a courtesy to bring the IDS to the Examiner's attention, along with a copy of the return postcard that shows USPTO's date stamped receipt of the IDS on December 9, 2005.

Applicant believes that no fee is required; however, if a fee is required, the Commissioner is authorized to deduct such fee from the undersigned's Deposit Account No. 20-1430. Please deduct any additional fees from, or credit any overpayment to, the above noted Deposit Account.

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**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

  
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